

Senate Study Bill 3203 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
REVENUE BILL)

A BILL FOR

1 An Act relating to the policy administration of the tax and
2 related laws by the department of revenue, including the
3 administrative appeals process for certain tax matters and
4 a related study and report, the individual and corporate
5 income tax and the franchise tax, and the sales and use
6 taxes, and including effective date and applicability
7 provisions.
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

STATE BOARD OF TAX REVIEW

Section 1. Section 421.1, subsection 5, paragraph a, Code 2014, is amended to read as follows:

a. Upon its own motion or upon appeal by any affected taxpayer, the state board shall review the record evidence and the decisions of, and any orders or directive issued by, the director of revenue under Title X, subtitle 2, for the identification of taxable property, classification of property as real or personal, or for assessment and ~~collection~~ valuation of ~~taxes~~ property by the department under Title X, subtitle 2, or an order to reassess or to raise assessments to any local assessor under Title X, subtitle 2, and shall affirm, modify, reverse, or remand them within sixty days from the date the case is submitted to the board for decision. For an appeal to the board to be valid, written notice must be given to the department within thirty days of the rendering of the decision, order, or directive from which the appeal is taken. The director shall certify to the board the record, documents, reports, audits, and all other information pertinent to the decision, order, or directive from which the appeal is taken.

Sec. 2. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 3. APPLICABILITY. This division of this Act applies to appeals made to the state board of tax review on or after the effective date of this division of this Act, and appeals pending before the state board of tax review on the effective date of this division of this Act shall be governed by section 421.1, Code 2014.

DIVISION II

ADMINISTRATIVE APPEALS

Sec. 4. Section 421.23, Code 2014, is amended to read as follows:

421.23 Fees and mileage.

1 The fees and mileage of witnesses attending any hearing of
2 the department, including contested case hearings but excluding
3 small case hearings, pursuant to any subpoena, shall be the
4 same as those of witnesses in civil cases in district court.

5 Sec. 5. Section 421.60, subsection 2, paragraph g, Code
6 2014, is amended to read as follows:

7 g. A taxpayer may request in writing that a contested case
8 proceeding or small case proceeding, whichever is applicable,
9 be commenced by the department after a period of six months
10 from the filing of a proper appeal by the taxpayer. The
11 department shall file an answer within thirty days of receipt
12 of the request and a contested case proceeding or small case
13 proceeding, whichever is applicable, shall be commenced. In
14 the case of an appeal of an assessment, failure to answer
15 within the thirty-day time period and after a request has been
16 made shall result in the suspension of interest from the time
17 that the department was required to answer until the date that
18 the department files its answer. In the case of an appeal of
19 a denial of a refund, failure to answer within the thirty-day
20 time period, and after a request has been made, shall result in
21 the accrual of interest payable to the taxpayer at double the
22 rate in effect under section 421.7 from the time the department
23 was required to answer until the date that the department files
24 its answer.

25 Sec. 6. Section 421.60, subsection 4, paragraph a,
26 unnumbered paragraph 1, Code 2014, is amended to read as
27 follows:

28 A prevailing taxpayer in an administrative hearing other
29 than a small case proceeding, or a court proceeding related to
30 the determination, collection, or refund of a tax, penalty,
31 or interest may be awarded reasonable litigation costs by the
32 department, state board of tax review, or a court, incurred
33 subsequent to the issuance of the notice of assessment or
34 denial of claim for refund in the proceeding, based upon the
35 following:

1 Sec. 7. Section 421.60, subsection 6, unnumbered paragraph
2 1, Code 2014, is amended to read as follows:

3 The burden of proof with respect to assessments or denial
4 of refunds in contested case proceedings and small case
5 proceedings shall be allocated as follows:

6 Sec. 8. Section 421.60, Code 2014, is amended by adding the
7 following new subsection:

8 NEW SUBSECTION. 11. *Small case proceedings.*

9 *a.* The department shall establish small case proceedings
10 to be used in lieu of the contested case proceedings provided
11 pursuant to this Title X and chapter 17A.

12 *b.* The department shall adopt rules relating to small case
13 proceedings, including but not limited to rules establishing
14 the types of actions of the director or department that shall
15 be considered eligible for appeal to the director under the
16 small case proceedings, the amount of tax at issue that shall
17 be considered a small case, and rules relating to the transfer
18 to small case proceedings of eligible cases pending before the
19 director on the effective date of this division of this Act.
20 Actions of the director or department under Title X, subtitle
21 2, shall not be eligible for the small case proceedings.

22 *c.* Use of the small case proceedings shall be at the
23 election of the taxpayer. The director may for good cause
24 refuse use of the small case proceedings by a taxpayer that
25 otherwise meets the requirements for use of the small case
26 proceedings.

27 *d.* Notwithstanding the provisions of this Title X, chapter
28 17A, or any other provision of law to the contrary, all of the
29 following apply to small case proceedings:

30 (1) Small case proceedings shall be informal. To the
31 extent consistent with the requirements of due process, the
32 department may by rule dispense with or otherwise modify
33 provisions relating to formal contested case proceedings,
34 including but not limited to the recording and transcribing of
35 proceedings, the creation of a detailed case record, ex parte

1 communications, and the rules of civil procedure.

2 (2) The presiding officer of a hearing under small case
3 proceedings shall be an administrative law judge assigned by
4 the division of inspections and appeals in accordance with the
5 provisions of section 10A.801.

6 (3) The decision of an administrative law judge shall
7 be considered the final action of the department under
8 chapter 17A, and shall not be reviewed by the director.
9 Notwithstanding the provisions of section 17A.19 or any
10 other provision of law to the contrary, the decision of an
11 administrative law judge in a small case proceeding is not
12 subject to judicial review.

13 (4) The decision of an administrative law judge in a small
14 case proceeding shall not be indexed and made available to
15 the public by the department, and shall not be considered as
16 precedent in any other case, hearing, or proceeding.

17 (5) The administrative law judge shall notify the taxpayer
18 and the director by mail of the decision.

19 e. The provisions of section 422.70 shall also be applicable
20 to an administrative law judge acting under the authority of
21 this subsection.

22 Sec. 9. Section 424.1, subsection 4, Code 2014, is amended
23 to read as follows:

24 4. The board shall retain rulemaking authority, but may
25 contract with the department for assistance in drafting
26 rules. The board shall retain contested case jurisdiction
27 over any challenge to the diminution rate or cost factor. The
28 department shall conduct all other contested cases or small
29 case proceedings, whichever is applicable, and be responsible
30 for other agency action in connection with the environmental
31 protection charge imposed under this chapter.

32 Sec. 10. APPLICABILITY. This division of this Act applies
33 to appeals pending before the director of revenue on January
34 1, 2015, and to appeals made to the director of revenue on or
35 after January 1, 2015.

1 DIVISION III
2 STUDY REPORT

3 Sec. 11. ADMINISTRATIVE APPEALS PROCESS FOR TAX MATTERS —
4 REPORT. The department of revenue, in consultation with the
5 department of management and other interested stakeholders,
6 shall continue to study the independence, effectiveness,
7 and fairness of the state's current administrative appeals
8 processes for tax matters and shall make recommendations
9 for changes, if necessary, and shall additionally study the
10 desirability, practicality, and feasibility of replacing
11 components of these processes with new administrative appeals
12 processes for tax matters within the executive branch to
13 resolve disputes between the department of revenue and
14 taxpayers. The department of revenue shall prepare and
15 file a report, if necessary, detailing its findings and
16 recommendations with the chairpersons and ranking members of
17 the ways and means committees of the senate and the house of
18 representatives and with the legislative services agency by
19 January 8, 2015.

20 DIVISION IV
21 INCOME TAXES

22 Sec. 12. Section 422.16, subsection 11, paragraph a, Code
23 2014, is amended to read as follows:

24 a. A person or married couple filing a return shall make
25 estimated tax payments if the person's or couple's Iowa
26 income tax attributable to income other than wages subject
27 to withholding can reasonably be expected to amount to ~~two~~
28 five hundred dollars or more for the taxable year, except
29 that, in the cases of farmers and fishermen, the exceptions
30 provided in the Internal Revenue Code with respect to making
31 estimated payments apply. The estimated tax shall be paid in
32 quarterly installments. The first installment shall be paid
33 on or before the last day of the fourth month of the taxpayer's
34 tax year for which the estimated payments apply. The other
35 installments shall be paid on or before the last day of the

1 sixth month of the tax year, the last day of the ninth month
2 of the tax year, and the last day of the first month after the
3 tax year. However, at the election of the person or married
4 couple, an installment of the estimated tax may be paid prior
5 to the date prescribed for its payment. If a person or married
6 couple filing a return has reason to believe that the person's
7 or couple's Iowa income tax may increase or decrease, either
8 for purposes of meeting the requirement to make estimated
9 tax payments or for the purpose of increasing or decreasing
10 estimated tax payments, the person or married couple shall
11 increase or decrease any subsequent estimated tax payments
12 accordingly.

13 Sec. 13. Section 422.85, Code 2014, is amended to read as
14 follows:

15 **422.85 Imposition of estimated tax.**

16 A taxpayer subject to the tax imposed by sections 422.33 and
17 422.60 shall make payments of estimated tax for the taxable
18 year if the amount of tax payable, less credits, can reasonably
19 be expected to be more than ~~one~~ two thousand dollars for the
20 taxable year. For purposes of this division, "*estimated tax*"
21 means the amount ~~which~~ that the taxpayer estimates to be the
22 tax due and payable under division III or V of this chapter for
23 the taxable year.

24 Sec. 14. Section 422.86, subsections 1, 2, 3, and 4, Code
25 2014, are amended to read as follows:

26 1. If it is first determined that the estimated tax will
27 be greater than ~~one~~ two thousand dollars on or before the last
28 day of the fourth month of the taxable year, the estimated
29 tax shall be paid in four equal installments. The first
30 installment shall be paid not later than the last day of
31 the fourth month of the taxable year. The second and third
32 installments shall be paid not later than the last day of the
33 sixth and ninth months of the taxable year, and the final
34 installment shall be paid on or before the last day of the
35 taxable year.

1 2. If it is first determined that the estimated tax will
2 be greater than ~~one~~ two thousand dollars after the last day of
3 the fourth month but not later than the last day of the sixth
4 month of the taxable year, the estimated tax shall be paid in
5 three equal installments. The first installment shall be paid
6 not later than the last day of the sixth month of the taxable
7 year. The second installment shall be paid on or before the
8 last day of the ninth month of the taxable year and the third
9 installment shall be paid on or before the last day of the
10 taxable year.

11 3. If it is first determined that the estimated tax will
12 be greater than ~~one~~ two thousand dollars after the last day of
13 the sixth month but not later than the last day of the ninth
14 month of the taxable year, the estimated tax shall be paid in
15 two equal installments. The first installment shall be paid
16 not later than the last day of the ninth month and the second
17 installment shall be paid on or before the last day of the
18 taxable year.

19 4. If it is first determined that the estimated tax will
20 be greater than ~~one~~ two thousand dollars after the last day of
21 the ninth month of the taxable year, the estimated tax shall be
22 paid in full on or before the last day of the taxable year.

23 Sec. 15. EFFECTIVE DATE. This division of this Act takes
24 effect January 1, 2015.

25 Sec. 16. APPLICABILITY. This division of this Act applies
26 to tax years beginning on or after January 1, 2015.

27 DIVISION V

28 SALES AND USE TAXES

29 Sec. 17. Section 423.3, subsection 8, Code 2014, is amended
30 by adding the following new paragraph:

31 NEW PARAGRAPH. *d.* For purposes of this subsection, an
32 all-terrain vehicle and an off-road utility vehicle, as defined
33 in section 321I.1, are exempt under paragraph "a" when used
34 primarily in agricultural production.

35 EXPLANATION

1 The inclusion of this explanation does not constitute agreement with
2 the explanation's substance by the members of the general assembly.

3 This bill relates to the policy administration of the tax
4 and related laws by the department of revenue, including the
5 administrative appeals process for tax and other matters, the
6 individual and corporate income tax and the franchise tax, and
7 the sales and use taxes.

8 DIVISION I — STATE BOARD OF TAX REVIEW. Division I relates
9 to the state board of tax review. The state board of tax review
10 (board) is an independent, bipartisan board consisting of
11 three members appointed by the governor and confirmed by the
12 senate. One of the powers and duties of the board is to review
13 final decisions of the director, including but not limited to
14 final decisions issued by the director in a contested case.
15 The board also has the original jurisdiction to review the
16 director's assessments and valuations of centrally assessed
17 property for purposes of property taxation, which means the
18 taxpayer appeals the assessment or valuation of the director
19 directly to the board. Both the taxpayer and the director have
20 the right to appeal a decision of the board to district court.

21 The division amends the types of decisions of the director
22 that may be reviewed by the board to specify that only
23 decisions made under Code Title X, subtitle 2 (property taxes),
24 may be appealed to the board. As a result, decisions of the
25 director with regard to income taxes, franchise taxes, sales
26 and use taxes, and various excise and other taxes will no
27 longer be appealable to the board and must instead be appealed
28 directly to district court.

29 The division takes effect upon enactment and applies to
30 appeals made to the board on or after the effective date of the
31 division, and appeals pending before the board on the effective
32 date of the division shall be governed by current Code section
33 421.1.

34 DIVISION II — ADMINISTRATIVE APPEALS. Division II relates
35 to the administrative appeals process of the department of

1 revenue by authorizing small case proceedings.

2 Under current law, when a taxpayer appeals a decision of the
3 director and no settlement can be reached between the parties,
4 the director grants a contested case hearing pursuant to the
5 provisions of Code chapter 17A (Iowa administrative procedures
6 Act). Following a contested case decision, the director issues
7 a final decision. The director can and often does transfer
8 contested cases to an administrative law judge who presides
9 over the hearing and issues a proposed decision. When this
10 occurs, the director may adopt the proposed decision as the
11 final decision of the department, or may reverse or modify
12 the proposed decision according to the standards provided in
13 the Iowa administrative procedures Act. Following the final
14 decision of the director, a taxpayer may appeal the decision
15 to the state board of tax review or may seek judicial review of
16 the decision.

17 The division requires the department of revenue to adopt
18 small case proceedings that may be used at the election of the
19 taxpayer, and shall be in lieu of a contested case hearing.
20 The department is required to adopt rules relating to small
21 case proceedings, including but not limited to the types
22 of actions of the director and amounts of tax that will be
23 considered eligible for small case proceedings. The department
24 is also required to adopt rules relating to the transfer to
25 the small case proceedings of eligible cases pending before
26 the director on the effective date of the division. Actions
27 of the director or department relating to property taxes are
28 not eligible for the small case proceedings. The department
29 may refuse use of the small case proceedings to a taxpayer
30 for good cause. The division requires small case proceedings
31 to be informal and allows the department to dispense with
32 or otherwise modify provisions relating to formal contested
33 case proceedings such as the recording and transcribing
34 of proceedings, the creation of a detailed case record, ex
35 parte communications, and the rules of civil procedure. The

1 presiding officer of a hearing under small case proceedings
2 shall be an administrative law judge assigned by the department
3 of inspections and appeals. The decision of the administrative
4 law judge in a small case proceeding shall be considered the
5 final action of the department of revenue and shall not be
6 reviewed by the director or appealed to district court by the
7 taxpayer or the director. Furthermore, the decision of the
8 administrative law judge in a small case proceeding shall not
9 be indexed and made available to the public, and shall not
10 be considered as precedent in any other case, hearing, or
11 proceeding.

12 The division applies all the provisions of Code section
13 422.70, relating to the general hearing powers of the director,
14 to an administrative law judge acting under the authority of
15 the small case proceedings.

16 The division specifies that the provision of fees and
17 mileage of witnesses, and the awarding of litigation costs in
18 certain situations, shall not apply to small case proceedings.

19 APPLICABILITY. The division applies to appeals pending
20 before the director on January 1, 2015, and to appeals made to
21 the director on or after January 1, 2015.

22 DIVISION III — STUDY REPORT. Division III establishes
23 a report to be prepared and filed, if necessary, by the
24 department of revenue. The department of revenue, in
25 consultation with the department of management and other
26 interested stakeholders, shall continue to study the current
27 administrative appeals processes for tax matters and make
28 recommendations for changes if necessary, and also study the
29 possibility of creating new administrative appeals processes.
30 The report, if necessary, detailing any recommended changes
31 or findings shall be filed with the chairperson and ranking
32 members of the ways and means committees of the senate and the
33 house of representatives and with the legislative services
34 agency by January 8, 2015. A similar study and report was
35 conducted last year and filed on January 8, 2014, by the

1 department of revenue.

2 DIVISION IV — INDIVIDUAL AND CORPORATE INCOME TAX AND
3 FRANCHISE TAX. Division IV increases the threshold at which
4 estimated payments are required to be made under the individual
5 and corporate income tax and the franchise tax. Under current
6 law, an individual must make estimated tax payments if the
7 individual's income, other than wages subject to withholding,
8 will be \$200 or more during the tax year. The division
9 increases this amount to \$500. Also under current law, a
10 corporation subject to the corporate income tax and a financial
11 institution subject to the franchise tax must make estimated
12 tax payments if the corporation's or financial institution's
13 tax during the tax year will exceed \$1,000. The division
14 increases this amount to \$2,000. The division takes effect
15 January 1, 2015, and applies to tax years beginning on or after
16 that date.

17 DIVISION V — SALES AND USE TAXES. Division V exempts
18 the sales price of all-terrain vehicles and off-road utility
19 vehicles used primarily in agricultural production from the
20 sales and use tax. Under current law, such vehicles are not
21 exempt from sales and use tax unless they are directly and
22 primarily used in production of agricultural products.

23 "All-terrain vehicle" means a motorized vehicle with not
24 less than three and not more than six nonhighway tires that
25 is limited in engine displacement to less than 1,000 cubic
26 centimeters and in total dry weight to less than 1,200 pounds
27 and that has a seat or saddle designed to be straddled by the
28 operator and handlebars for steering control.

29 "Off-road utility vehicle" means a motorized vehicle with
30 not less than four and not more than eight nonhighway tires or
31 rubberized tracks that is limited in engine displacement to
32 less than 1,500 cubic centimeters and in total dry weight to
33 not more than 2,000 pounds and that has a seat that is of bucket
34 or bench design, not intended to be straddled by the operator,
35 and a steering wheel or control levers for control.

S.F. _____ H.F. _____

1 By operation of Code section 423.6, an item exempt from the
2 imposition of the sales tax is also exempt from the use tax
3 imposed in Code section 423.5.